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December 7, 2012

FILED/ACCEPTED

DEC 7 2012

Federal Communications Commission
Office of the Secretary

Marlene H. Dortch, Secretary
Federal Communications Commission
FCC Headquarters
445 12th Street SW
Washington DC 20554

Re: Radio Station KJMU (AM), Sand Springs, OK (FAC# 47101);
Response to FCC Letter Dated November 8, 2012 (Ref. 1800B3-DW)

Dear Madam Secretary:

On behalf of Birach Broadcasting Corporation, ("Birach") Licensee of Radio Station KJMU (AM), Sand Springs, Oklahoma (FCC Facility ID No. 47101) ("Station"), we hereby respond to FCC Letter dated November 8, 2012 (Ref. 1800B3-DW). In the FCC Letter, the Audio Division Staff states that FCC records indicate that the Station has been silent since November 7, 2011 and that because of this silent status, the Station's license has expired as a matter of law pursuant to Section 312(g) of the Communications Act.

The November 7, 2011 date which is in the FCC database is incorrect. The date the Station actually was taken silent was November 29, 2011. To confirm the proper date, please find attached the Declaration of Sima Birach, President of Birach. Mr. Birach clearly states that the Station was on the air thru the end of November 2011. Mr. Birach provides statements from his local Tulsa engineer, James Hardman, confirming the proper date.

On November 27, 2012, Birach timely returned the Station to the air, prior to the one-year statutory deadline. Should there be any questions regarding this matter, please contact this office.

Very truly yours,


John C. Trent

cc: KJMU (AM) Public Inspection File

DECLARATION OF SIMA BIRACH

I, Sima Birach, declare under the penalty of perjury that the following is true and correct to the best of my knowledge and belief.

1. I am the President and sole shareholder of Birach Broadcasting Corporation, the licensee of Radio Station KJMU (AM), Sandy Springs, OK (FCC Facility ID No. 47101) ("KJMU" or "Station") and submit my declaration in response to the FCC Letter dated November 8, 2012 (FCC Ref. No. 1800B3-DW) ("FCC Letter") in which a question was raised as to whether KJMU was silent for more than one year. I declare that KJMU was *not* silent for more than one year and have detailed the status of Station.

2. During mid-summer of 2011, a dispute arose between my company and the Landlord of the KJMU studio, Infinite Enterprises. Litigation was initiated and a hearing date was set for November 15, 2011. I have attached hereto as Exhibit 1 a copy of the suit for possession of the KJMU studio. Rather than battle it out in court, I decided the best thing to do was to vacate the studio by the end of November, 2011 and then negotiate a settlement with the Landlord for KJMU's continued use of the property.

3. I directed my local engineer, James Hardman, to take the Station silent by the end of the month, which he did on *November 29, 2011*. Mr. Hardman went on to store the KJMU transmitter and studio equipment until the studio issue could be resolved. I have attached hereto as Exhibit 2 two confirmation e-mails from Mr. Hardman regarding the date KJMU went silent.

4. My previous counsel, the late Lauren A. Colby, clearly misunderstood my instructions and filed an off air notice prematurely. He indicated that the date was November 7, 2011, when the correct date was November 29, 2011. On December 6, 2011, he filed a silent authority request and again gave the wrong date. On the same day, he filed FCC Form 302-AM (See BL-20111206BDB) to cover BP-20101115DQK. On November 28, 2011, I executed the 302-AM Application and specifically indicated that I *was operating* under program test authority. Because I could not work out a settlement with the Landlord, I have proposed to relocate KJMU to a new nearby location (See BP-20121102ACS).

5. I am unclear why there was confusion with Mr. Colby, as I had made it clear to him that KJMU would run thru the month of November. I believe that the confusion was due to

Mr. Colby's struggle with terminal cancer. Shortly after these filings he retired from practice and passed away.

6. As declared above, the date which KJMU had to return to the air was November 29, 2012 *not* November 7, 2012 as was in the FCC database. My engineer made arraignments for limited use at the licensed site and returned KJMU to the air in a timely fashion on November 27, 2012. I directed new counsel, John C. Trent, to notify the FCC that KJMU was on the air, which he did. After six days on the air, we temporarily took KJMU silent again and filed a request for silent authority on December 4, 2012 (See BLSTA-20121204AAN).

5. I believe this Declaration answers the issue raised in the FCC's Letter.

The foregoing was signed this 6 day of December, 2012.



Sima Birach, President

EXHIBIT 1

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

Infinite Enterprises, an Oklahoma Joint Venture
Composed of John B. Jarrett, III and
Luther C. Graham,

Plaintiff,

vs.

Birach Broadcasting Company, a Michigan Corp.,
doing business in Tulsa County, State of Oklahoma)
and unknown Occupants of building located at
8886 W. 21st St. Tulsa, Oklahoma.

Defendants

Case No.: SC-2011-15901

Amended
ALIAS SUMMONS

DISTRICT COURT
FILED
SEP 28 2011

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA, TULSA COUNTY

THE STATE OF OKLAHOMA TO THE WITHIN NAMED DEFENDANT(S):

You are hereby directed to relinquish immediately to the plaintiff herein total possession, including removal of all personal property, from and to the real property described as: Part of Government Lot Three (3), beginning 31.3 feet South of the Northeast Corner of said Lot Three (3), thence South 92 feet, thence West 342 feet, thence North 92 feet, thence East 342 feet to the point of beginning, containing .772 acres more or less, a/k/a 8886 West 21st. Street, Sand Springs, Oklahoma or to appear and show cause why you should be permitted to retain control and possession thereof.

This matter shall be heard in Room 112, of the Tulsa County Courthouse, 5th Street and Denver Avenue, in Tulsa, Tulsa County, State of Oklahoma, at the hour of 2 O'clock P. M. on the 15 day of November, 2011, or on the same time and place three (3) days after service hereof, whichever is the latter. (This date shall not be less than five (5) days from the date summons is issued.) You are further notified that, if you do not appear on the date shown, judgment will be given against you as follows:

The amount of the claim, as stated in the above affidavit and, in addition, for the costs of the action (including attorney fees were provided by law) and costs of service of the Order.

Dated this 28 day of September, 2011.

I Sally Howe Smith, Court Clerk for Tulsa County, Oklahoma hereby certify that the foregoing is a true, correct and full copy of the instrument herewith set out as appears of record in the

SALLY HOWE SMITH,
COURT CLERK

Court Clerk's Office of Tulsa County, Oklahoma, this

28 day of September, 2011

By

Deputy

Sally Howe Smith
Court Clerk

Clerk of the Court (or Judge)

Sheriff or process server's return to be made on or before

EXHIBIT 2

John C Trent

From: J.Zerone Hardman [jzhardman@hotmail.com]
Sent: Thursday, December 06, 2012 11:24 AM
To: John Trent
Cc: sima birach; Sima Birach
Subject: KJMU

Hello John-

KJMU 1340 Tulsa was on air through 11/29/2011. I took it off air in December of 2011. Please contact me should you need any additional information.

Thanks,

James Z. Hardman

John C Trent

From: J.Zerone Hardman [jzhardman@hotmail.com]
Sent: Thursday, December 06, 2012 12:12 PM
To: John Trent
Cc: sima birach; Sima Birach
Subject: KJMU Tulsa

John-

I am the owner and engineer of Hardman Broadcasting, Inc. I also have operated and engineered KJMU 1340 in Tulsa since February 2008, until he leased it to a latino broadcaster in late 2010; at which time I continued engineering duties for the station. I originally powered KJMU 1340 up for Sima Birach and Birach Broadcasting after the purchase from Davidson Media in 2008 and I was also the one who took the station dark and stored the equipment in December 2011. Should you have any further concerns or are in need of anymore information which I can provide feel free to contact me.

Thanks,

James Z. Hardman
918-561-6789
918-734-9964 cell